

Shield of Secrecy Lost to Suspect

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A D.C. Superior Court judge yesterday took what court sources indicated was an unprecedented legal step by allowing the introduction of a defendant's prior criminal conviction record into evidence although the defendant did not take the witness stand.

Prior to yesterday's ruling by Judge Nicholas S. Nunzio, prosecutors have only been allowed to introduce a conviction record in order to destroy his credibility only if the defendant takes the witness stand.

Prosecutors, however, have been allowed to mention prior arrest records of defendants in order to show motive or intent for the act for which the man is being tried.

In his opening statement to the jury yesterday in the trial of Kenneth Robinson, a 22-year-old D.C. man charged with assaulting a 4-year-old child, Assistant U.S. Attorney Lawrence Latais told the jury he would introduce evidence to prove Robinson was convicted of assaulting the same child two years ago.

Defense attorney DeLong Harris objected to Latais' mentioning the fact that Robinson had assaulted the child on a previous occasion. Following a bench conference in which Harris was overruled, Latais continued his remarks and mentioned the conviction again.

Following the noon recess Judge Nunzio told the attorneys he had considered declaring a mistrial because of Latais' action, but had decided to let the case go forward.

"The introduction of the alleged criminal act is prejudicial," Nunzio told the attorneys before the jury returned to the courtroom, "but when you introduce it to show intent or motive, it is permissible."

"The introduction of the act itself is prejudicial, not the question of conviction. I consider the word convicted simply an elongation of the word committed (as in acts committed)."

"I will allow the government's introduction of the conviction to show motive and intent," said the judge, who said he was able to find pertinent law on the subject.

Harris, who objected vehemently to the judges' ruling,

said, "there's a supreme indifference here to this man's rights under the Constitution. There has never been any case which I have heard about where a prior conviction has been introduced" in this manner.

The defense attorney said he would feel "duty-bound to appeal" if his client is convicted. The judge adjourned the trial for the night just prior to the attorneys' summations to the jury.

Earlier in the day the jury of six men and six women heard Shirley Russell, mother of 4-year-old Thomas Allen Russell, testify that Robinson had beaten the child with a belt on Jan. 10 and the following day had flung a pair of pliers at the child striking him in the head with such force that the pliers stuck into the child's skull.

Robinson lived with Miss Russell for three years and was the father of another child by her.

Robert Dickey, a pediatrician at Children's Hospital, testified that Thomas Allen's skull had been split by the pliers, and the child had undergone surgery to remove bone splinters from his brain, and to remove a small portion of damaged brain tissues.

"The skull fragments were pushed into the hole (in the child's head made by the entry of the pliers) and the brain was coming out," testified Dr. Dickey.

"The child recovered nicely from surgery, but because of the area of the brain involved it is possible he will develop a seizure disorder or epilepsy," said Dr. Dickey.